

AudioCast Episode 1 (October 2, 2021)

Newscaster:

California Governor Gavin Newsom has just signed Assembly Bill 1194. The bill provides conservatees with additional protections concerning the right to counsel.

As originally introduced by Senator Ben Allen, the measure had only one purpose: to protect the right of a proposed conservatee to have an attorney of their choice. This provision was prompted by the case of Britney Spears who was denied her right to chosen counsel and then had an appointed attorney forced on her by the court. Spears later accused this attorney of failing to properly represent her.

At the suggestion of Spectrum Institute, Senator Allen added additional protections in the bill – all of which will go into effect on January 1. Thomas Coleman, legal director of Spectrum Institute believes these provisions will push the conservatorship system in the direction of reform.

Thomas F. Coleman:

“AB 1194 requires judges to allow proposed conservatees to hire their own attorney if they wish. For those who can’t retain counsel, it requires that an attorney be appointed for the individual. And most important of all, the law clearly directs that appointed counsel must act as a zealous and independent advocate. If they truly defend their clients as the new law contemplates, these attorneys will file motions and raise objections to challenge illegal actions by judges and other parties to the case. They will even demand jury trials and file appeals. If even just 10% of the 400 attorneys who represent these clients in California were to act as zealous advocates, the currently dysfunctional system will be pushed in the direction of reform.”

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Spectrum Institute plans to offer webinars for public defenders and appointed attorneys this fall to educate them on how to comply with the zealous advocacy requirements of AB 1194 and to alert them to the potential legal and financial consequences if they don’t.